

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DALE GILMORE,

Plaintiff,

-against-

MARCY CORR. FAC.,

Defendant.

24-CV-7881 (LTS)

ORDER OF DISMISSAL
AS DUPLICATIVE

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who currently is incarcerated at Elmira Correctional Facility, brings this *pro se* action regarding events that occurred at Sing Sing Correctional Facility, where he previously was incarcerated. Plaintiff did not submit a complaint, name defendants, provide a statement of his claims, or file an *in forma pauperis* (“IFP”) application and prisoner authorization. Rather, he submitted what appear to be grievances he filed at various correctional facilities. The Clerk’s Office opened a new civil action and listed Marcy Correctional Facility – where Plaintiff was incarcerated at the time he submitted his grievances to the court – as the defendant. On October 23, 2024, the Court directed Plaintiff to file an IFP application and prisoner authorization, or pay the fees to initiate a new civil action.

After this action was opened, on November 6, 2024, the Court received from Plaintiff a complaint, an IFP application, and a prisoner authorization where he named individual defendants and asserted claims regarding events that occurred at Sing Sing, and which appear to be the subject of the grievances filed in this action. The Clerk of Court opened this new civil action and assigned it docket number 24-CV-8614. *See Gilmore v. Jackson*, No. 24-CV-8614 (S.D.N.Y., complaint filed on Nov. 6, 2024). On November 20, 2024, the Court granted Plaintiff’s IFP application in the 24-CV-8614 action.

Because Plaintiff filed a complaint in the 24-CV-8614 action, and the Court granted his IFP application in that matter, no useful purpose would be served by the filing and litigation of this duplicate action. The Court therefore dismisses this action without prejudice to Plaintiff's pending action under docket number 24-CV-8614.

In light of the Court's belief that Plaintiff may have submitted his grievances to the Court in error, and did not intend for the Clerk's Office to open this civil action, the Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust account for this lawsuit. Furthermore, the Court vacates its October 23, 2024 order. Plaintiff is not required to respond to that order. All submissions regarding this action should be filed in the 24-CV-8614 matter.

CONCLUSOIN

The Court dismisses Plaintiff's complaint as duplicative of *Gilmore v. Jackson*, No. 24-CV-8614.

The Court vacates its order directing Plaintiff to submit an IFP application and prisoner authorization. (ECF 6.) The Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Court directs the Clerk of Court to enter judgment in this action.

SO ORDERED.

Dated: December 10, 2024
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge